



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

August 2, 2017

Mary Beth Jensen  
Pet Shop Owner  
Friendly Pets DBA Jensen & Sons, Inc.  
625 Friendly Center Road  
Greensboro, North Carolina 27408

**NOTICE OF CIVIL PENALTY AND NOTICE OF WARNING**

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C.  
ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(5), .0210(c) and (d).**

**AWS-CP-2017-12**

Facility: Friendly Pets DBA Jensen & Sons, Inc.  
License Number 20446

Dear Ms. Jensen:

Pursuant to N.C. Gen. Stat. § 19A-40, I am issuing this notice to you that Friendly Pets DBA Jensen & Sons, Inc. is hereby assessed a civil penalty of \$200.00 as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

### **PAYMENT**

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services  
Dr. Patricia Norris  
Director, Animal Welfare Section  
1030 Mail Service Center  
Raleigh, NC 27699-1030

### **APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statute § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days of your receipt of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to OAH. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', written over a horizontal line.

Patricia Norris, DVM MS  
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian  
Tina Hlabse, General Counsel, NCDA&CS  
Joe Reardon, Assistant Commissioner, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES,  
VETERINARY DIVISION

IN THE MATTER OF  
FRIENDLY PETS DBA  
JENSEN & SONS, INC.

) NOTICE OF VIOLATIONS,  
) ASSESSMENT OF CIVIL PENALTY  
)  
) FOR VIOLATIONS OF 02 N.C.  
) ADMINISTRATIVE CODE (NCAC)  
) 52J .0101(5) .0210(c) and (d)  
)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

**FINDINGS OF FACT**

1. At all times pertinent to this matter Friendly Pets DBA Jensen & Sons, Inc. (the "pet shop") is a pet shop licensed pursuant to N.C. General Statute §19A-27.
2. On March 30, 2016, AWS issued a Notice of Warning and Notice of Deficiency to the pet shop for violations of 02 NCAC 52J .0101(5) and .0210(c).
3. On March 15, 2017, AWS issued a Notice of Civil Penalty to the pet shop for violations of 02 NCAC 52J .0101(5) and .0209(5).
4. On July 13, 2017, AWS received a complaint concerning a Poodle puppy, purchased from the pet shop, that was diagnosed with a contagious disease and had not received its rabies vaccination despite being older than 12 weeks of age.
5. On July 17, 2017, AWS Animal Health Technician Christie Shore ("Inspector Shore") conducted a site visit, observed the animals in the care of the pet shop and reviewed the pet store records as a part of the investigation into this complaint.
6. The July 17, 2017 site visit revealed a Golden Retriever to be significantly underweight. A review of the medical records for this puppy showed that the puppy had lost weight since the intake examination on June 30, 2017. There were no instructions to increase the feed for this puppy or to isolate the puppy from its cagemates during feeding. The medical record review did not indicate that veterinary care had been sought or provided for this puppy's poor body condition.
7. The July 17, 2017 site visit revealed that a Miniature Pinscher puppy was suffering from a significant skin disease. A review of the medical records for this puppy showed that no veterinary care had been sought or provided for the skin condition. Inspector Shore directed the pet shop to obtain veterinary care for this puppy and to isolate the puppy until the care had been provided in case the cause of the skin condition was contagious. The pet shop did take the puppy to a licensed veterinarian after the July 17, 2017 site visit. The puppy was diagnosed with bacterial dermatitis and provided with medications to treat the condition.

8. A review of the pet shop records during the July 17, 2017 site visit revealed that the record of veterinary care was not compliant for 5 animals. The records were missing information such as time of administration, dosage of medication, and initials of who administered the medications as required by 02 NCAC 52J .0101(5).
9. A review of the records for the Poodle puppy referenced in the complaint revealed that this puppy was older than 12 weeks while housed at the pet shop, but the puppy had not received a rabies vaccination as required by 02 NCAC 52J .0210(d).
10. A review of the records for the animals housed at the pet shop during the July 17, 2017 site visit revealed that an English Bulldog puppy born on March 10, 2017, and therefore was 18 weeks of age had not received a rabies vaccination as required by 02 NCAC 52J .0210(d).

## **CONCLUSIONS**

As a result of this investigation, AWS finds that on July 17, 2017, the pet shop, either by act or omission, violated the provisions:

02 NCAC 52J .0101(5) in failing to properly maintain record of veterinary care for 5 animals in the care of the pet shop;

02 NCAC 52J .0210(c) for failing to provide veterinary care for a sick animal in the case of the Golden Retriever puppy and the Miniature Pinscher puppy; and

02 NCAC 52J .0210(d) for failing to obtain rabies vaccinations for animals older than 12 weeks of age for the Poodle puppy and the English Bulldog puppy.

Furthermore, AWS finds that the pet shop has been previously issued a Notice of Civil Penalty on March 15, 2017 for violation of 02 NCAC 52J .0101(5) and .0210(c). The pet shop has also been previously issued a Notice of Warning and Notice of Deficiency on March 30, 2016 for violation of 02 NCAC 52J .0101(5) and .0210(c). The aforementioned Notices of Warning and Deficiency notified the pet shop of the consequences of additional violations of these regulations, including the assessment of civil penalties and potential suspension, revocation or denial of the pet shop's license.

## **CIVIL PENALTY**

As required by N.C. General Statute § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Friendly Pets DBA Jensen & Sons, Inc. is hereby assessed a civil penalty of \$200.00 for the violations of 02 NCAC 52J .0101(5) observed on July 17, 2017.

**\$200.00 TOTAL AMOUNT ASSESSED**


## NOTICE OF WARNING AND DEFICIENCY

As to the matter of the violations of 02 NCAC 52J .0210(c) and .0210(d), this letter serves as a writing warning indicating in which respects the pet shop has violated these provisions.

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the NC Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in disciplinary action against your facility's license pursuant to NC General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NC General Statute §19A-40.

(See Appendix for text of cited General Statutes and Administrative Codes)

August 2, 2017  
Date

  
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Dr. Patricia Norris  
Director, Animal Welfare Section  
North Carolina Department of  
Agriculture & Consumer Services

## Appendix

### Relevant Statutes and Regulations

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, pet shop, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or pet shop are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial pet shop, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

#### **§19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)

#### **02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.**

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

*History Note:* Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.

#### **02 NCAC 52J .0210 VETERINARY CARE**

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

(d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

*History Note:* Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.